

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN E. COMAN, JR.,

Plaintiff,

v.

ACA COMPLIANCE GROUP,

Defendant.

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Civil Action No. 2:21-cv-976

ELECTRONICALLY FILED

NOTICE OF REMOVAL

To: The Honorable Judges of the United States District Court
for the Western District of Pennsylvania

Defendant Adviser Compliance Associates, LLC d/b/a ACA Group, incorrectly identified as ACA Compliance Group, in accordance with the applicable Federal Rules of Civil Procedure and Title 28 of the United States Code §§ 1331, 1441, and 1446, files this Notice of Removal and removes the action entitled “John E. Coman, Jr. v. ACA Compliance Group” that was originally filed in the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania, to the United States District Court for the Western District of Pennsylvania. Removal of this action is based upon the following:

BACKGROUND

1. Plaintiff John E. Coman, Jr. instituted this action in the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania by filing a Complaint on June 25, 2021. A copy of the Complaint filed by Plaintiff in the state-court action is attached as Exhibit A.
2. Defendant received notice of the Complaint on June 25, 2021.
3. Defendant has not, to date, filed an answer or other pleading in the Court of Common Pleas of Allegheny County.

VENUE

4. The Court of Common Pleas of Allegheny County, where Plaintiff's Complaint was filed, is within this Court's District. This action is therefore properly removable to this Court under 28 U.S.C. § 1446(a).

**REMOVAL IS PROPER
BASED ON FEDERAL-QUESTION JURISDICTION**

5. This action is within the original jurisdiction of this Court under 28 U.S.C. § 1331 because Plaintiff's civil action arises under federal law. *See Merrell Dow Pharmaceuticals, Inc. v. Thompson*, 478 U.S. 804, 808 (1986) (A "suit arises under the law that creates the cause of action.") (internal citations omitted).

6. In his Complaint, Plaintiff asserts the following causes of action against Defendant:
- a. Count I: Race discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* ("Title VII");
 - b. Count II: Sex discrimination in violation of Title VII;
 - c. Count III: Retaliation in violation of Title VII; and
 - d. Count IV: Race and sex discrimination in violation of the Pennsylvania Human Relations Act, 43 P.S. § 951 *et seq.* ("PHRA").¹ *See* Ex. A.

7. As pleaded, all of Plaintiff's claims derive from a "common nucleus of operative fact" related to his employment with Defendant. *City of Chicago v. Int'l College of Surgeons*, 522 U.S. 156, 164-65 (1997).

8. Plaintiff's Title VII and PHRA claims depend on the same alleged discrimination.

¹ Plaintiff's Complaint references "race" and "disability" discrimination under the PHRA. Given that all other references in the Complaint are to "race" and "sex" discrimination and that Plaintiff does not allege he has a disability, the PHRA equivalent claim is presumably for sex and not disability discrimination.

9. For these reasons, Plaintiff's federal and state law claims form part of the same case or controversy so that this Court may exercise pendent jurisdiction over Plaintiff's supplemental claims under Pennsylvania law. 28 U.S.C. § 1367(a); 28 U.S.C. § 1441(c).

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

10. Based on the date of Plaintiff's service of the Complaint, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b), in that Defendant has removed within 30 days of receipt of a properly served Complaint from which Defendant could ascertain that this action is removable.

11. Copies of all process, pleadings, orders, and other papers or exhibits of every kind currently on file in the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania, are attached to this Notice of Removal as Exhibit B, in accordance with 28 U.S.C. § 1446(a).

12. Upon filing this Notice of Removal, Defendant will provide a written notification to Plaintiff and will file a Notice of Filing of Notice of Removal with the clerk of the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania. A copy of the Notice of Filing of Notice of Removal is attached as Exhibit C (without exhibits).

13. Defendant files this Notice without waiving any defenses to the claims asserted by Plaintiff, without conceding that Plaintiff has stated claims upon which relief can be granted, and without conceding that Plaintiff is entitled to any damages against Defendant in any amount.

WHEREFORE, Defendant requests that the United States District Court for the Western District of Pennsylvania accept the removal of this action from the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania and direct that the Court of Common Pleas have no further jurisdiction over this matter.

Date: July 23, 2021

Respectfully submitted,

JACKSON LEWIS P.C.

/s/ Marla N. Presley

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CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2021, I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system, and have provided a courtesy copy to Plaintiff's counsel of record at the following address, via mail:

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Pittsburgh, PA 15219

/s/ Marla N. Presley

Marla N. Presley